I have tried to use the TCPA to reduce unwanted telemarketing, and I have found it rather ineffective.

The national do-not-call database envisioned in the statute, but not implemented by the FCC regulations, would be much more effective. The present do-not-call regulations do nothing to stem the vast tide of first-time telemarketers (first-time to me). The regulations are also rather ineffective against the repeat, but infrequent, telemarketer, who calls once or twice a year. Up to one call per year is permitted even after I make a do-not-call request. Furthermore, making a do-not-call request to each individual telemarketer is far too much of a burden for the small benefit achieved. Even if I make a do-not-call request to every telemarketer who calls, it probably will reduce the number of telemarketing calls I receive by less than 1%.

Hang-up calls have become a major nuisance. I now get many hang-up calls each day, presumably from telemarketers. This is a very annoying interruption if I am present near my phone. And the many calls have now worn out two answering machines, which start the audiotape to record the caller's message, and then when receiving a hang-up will rewind and fast-forward the audiotape over it's entire length to reposition the tape back to where it was when the hang-up call came in.

Even the pre-recorded message prohibitions are only moderately effective. I receive many pre-recorded messages, and the caller usually leaves insufficient information to take legal action against them. Often, they leave a business name and an (800) telephone number. This information is insufficient to track down an address for the caller, so that a lawsuit can be filed – the (800) phone number is typically unlisted, and the business name is so generic that an internet search turns up many businesses with the same name. Furthermore, in New York State (and presumably elsewhere), small claims cases may be filed only against local businesses or persons, not against a Florida based telemarketer.

The exception allowed for political and charitable organizations also causes problems. The frequency of such calls has increased, presumably because they think that there is less competition from commercial telemarketers, and therefore I am more likely to answer my phone. Some callers will take a do-not-call request, but many respond by saying that they don't have to, because they're a charitable organization. Also, I am reluctant to place my name on New York State's do-not-call registry, out of the much publicized possibility that political, charitable, and even commercial telemarketers will use the registry list as a list of good prospects, again presuming that telephones on the do-not-call registry receive fewer telemarketing calls, and thus are more likely to answer their telephones.

Finally, I have found small claims courts to be very reluctant to enforce the TCPA statute and regulations. I have filed several small claims lawsuits, all resulting in damage awards (except for a presently pending case). However, I have generally had to go through four levels of the judicial system to get justice: small claims arbitration, followed by a small claims trial upon my demand, followed by appeal (to County Court in New York State), followed by higher appeal (to the Appellate Division in New York State).

My consistent victory at the highest level of appeal indicates that my cases are legally sound, and the lower state courts simply are unwilling to uphold the law.

I suggest several changes. First, a national do-not-all registry would be very helpful. Absent this, the regulation allowing up to one telemarketing call every 12 months even after a do-not-call request should be amended to total prohibition after a do-not-call request. Third, the FCC should consider and issue an opinion that a single telephone call in violation of multiple statutory and regulatory requirements (e.g. violating the pre-recorded call prohibition, and failing to divulge a name, address, or phone number) constitutes multiple violations, not just a single violation, and is thus eligible for multiple $500 statutory damages awards. Fourth, the requirements to divulge an address or phone number should be amended to require divulging both an address and a phone number, which would make it more difficult for telemarketers to hide from lawsuits. Similarly, it should be required that the name of the individual telemarketer be disclosed, not just the name of the business, which also would make hiding more difficult, and would put the individual telemarketer on notice of possible personal liability. Fifth, it would be highly desirable to allow attorney's fees to a successful plaintiff – the cost of a lawsuit, particularly with the multiple appeals because small claims courts refuse to enforce the law, is inadequately compensated by the $500 damage awards. Finally, in any hearings where the telemarketing industry puts forth facts concerning the dollar amounts purchased through telemarketing or the number of customers who want telemarketing, the FCC should insist that such information be broken down according to whether the telemarketing was a cold call. It is the cold calls that are the source of most objections, while most of the purchases are probably not from cold calls, but rather from follow-up calls or even customer originated calls (which the telemarketing industry likes to lump together with cold calls, to make the statistics look good).